

Protest of)
) Date: March 9, 1990
GEORGIA POWER COMPANY)
) P.S. Protest No. 90-01
Electric Utility Services -)
Athens, GA)

ON RECONSIDERATION

Georgia Power Company timely requests reconsideration of our February 14, 1990 decision denying its protest against award to Jackson Electric Membership Corporation ("Jackson EMC") for electric utility services at the General Mail Facility at Athens, GA. The basis of the protest was a contention by Georgia Power that award to Jackson EMC was contrary to the Georgia Territorial Electric Service Act of 1973. Official Code of Georgia Annotated ("O.G.C.A.") " 46-3 et. seq. (Michie 1982). It maintained that Jackson EMC, in order to give the appearance that the Athens facility was a large electrical load customer, based its offer on an incorrect "connected load figure," thus allowing itself to submit a proposal under an exception to the state law.

In our decision, we noted that the contracting officer attempted to determine whether the exception to the state law allowed Jackson EMC to submit an offer. He supplied identical equipment lists to each offeror and considered information supplied by several Postal Service technical personnel and an outside consultant, ultimately deciding that Jackson EMC's proposal was proper. Our decision concluded that, notwithstanding the contracting officer's attempts to resolve the matter, a finding on such a factual issue, which depends entirely on state law, was both improperly before the contracting officer and outside the jurisdiction of this office.

In its request for reconsideration, Georgia Power continues to maintain that the contracting officer should have attempted to resolve the differences in the respective connected load figures of Georgia Power and Jackson EMC by holding a pre-award conference. It requests that a post award conference be held to resolve the issue.

The Procurement Manual ("PM") states that a request for reconsideration "must contain a detailed statement of the factual and legal grounds upon which reversal or modification is deemed warranted, specifying any errors of law made or information not considered." PM 4.5.7 n. "Reconsideration is not appropriate where the protester simply wishes us to draw from the argument and facts considered in the original protest decision conclusions different from those reached in that decision." Tompkins & Associates, On Reconsideration, P.S. Protest No. 88-58, January 27, 1989 (quoting Fort Lincoln New Town Corporation, On Reconsideration, P.S. Protest No. 83-53,

November 21, 1983). In its request for reconsideration, rather than offering new information not considered in our original decision or alleging legal error, Georgia Power merely disagrees with our conclusion. This is an insufficient basis for reconsideration.

The request for reconsideration is denied.

William J. Jones
Associate General Counsel
Office of Contracts and Property Law

[checked against original JLS 5/26/93]